



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Harris Corporation
File: B-235126
Date: August 8, 1989

DIGEST

1. Where solicitation required communications equipment composed of nondevelopmental items but permitted the agency to balance the risk to its program by accepting an offer based upon unproven or modified hardware, agency had discretion to accept offer of unproven equipment where evaluators reasonably determined that modifications to equipment needed to meet specifications did not present an unacceptable risk.
2. Use of broad adjectival scoring scheme (consisting of four categories) supported by narrative assessment of proposal advantages and disadvantages is not improper so long as the contracting officer is thereby able to gain a clear understanding of the relative merit of proposals.

DECISION

Harris Corporation protests the award of a contract to Rockwell International Corporation under request for proposals (RFP) No. DAAB07-88-R-C299, issued by the U.S. Army Communications-Electronics Command. The protester principally argues that the agency should have found the awardee's proposal technically unacceptable because Rockwell failed to meet the RFP's requirement that the equipment offered be composed of nondevelopmental items (NDI).

We deny the protest.

The RFP, issued on November 9, 1988, and subsequently amended, requested offers for a transportable high frequency (HF) communications assemblage for use by military special forces. The assemblage provides worldwide data and voice communications through the Defense Communications System's automatic digital and voice networks and also provides intra-theatre communication with other HF radios and systems. The RFP stated generally that the assemblage

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should be comprised of ("making maximum use of") non-developmental equipment items installed in a shelter mounted on a utility vehicle and transportable by aircraft.

The RFP's statement of work required the successful contractor to furnish various items of equipment, including a radio transmitter and two receivers as well as five modems. Two of the modems were identified by Harris brand name "or equal." The statement of work specified required characteristics for each item of equipment. In addition, the statement of work required offerors to include an ALE (automatic link establishment) and quality analysis system to evaluate assigned frequencies, automatically select a reliable frequency and establish an HF communications link.

The solicitation provided for award to the best overall proposal determined most advantageous to the government after consideration of technical, cost and management factors, in that order of importance. The technical factors included Technical Performance and Associated Technical Data, Integrated Logistics Support, and Production Readiness. The RFP also required offerors to identify any modifications to existing NDI necessary to satisfy requirements, with data analysis and other information necessary to show that modified equipment would meet solicitation requirements and schedules. The RFP stated that the agency would consider the extent to which a proposal reflected an understanding of the requirement, the feasibility of the approach and its completeness, including a review of test data and other supporting documentation. The RFP provided further that in reviewing the feasibility of an offeror's approach, the agency would consider the extent to which the offered equipment's operational capabilities and design depended upon unproven or modified hardware. The agency would then consider the degree of technical, performance and cost risks inherent in that approach and the "probability of successful accomplishment of contract requirements" in a timely and cost effective manner.

The agency received two proposals on January 31, 1989, one from the protester and one from the awardee; discussions were held, and both offerors submitted best and final offers on March 16. As relevant here, Harris proposed its brand name NDI modems (RF-5254B and RF-3466A). Rockwell proposed its data link HF modem (MDM-2001) to perform all functions of both Harris modems. The agency's technical team found both proposals acceptable and essentially equal in technical merit. Having determined that Rockwell's proposal offered the best value to the government because of its much lower price, the contracting officer, as source selection

authority, awarded Rockwell a contract on April 3.^{1/} On April 10, Harris filed this protest, alleging that Rockwell had not offered equipment based on NDI in its proposal, contrary to solicitation requirements.

The protester alleges that with regard to the modems, which typically constitute one-third of the shelter's cost, the MDM-2001 modem proposed by Rockwell is a new product requiring developmental effort, is not available commercially and does not currently exist with operational firmware. Further, the protester argues that the agency cannot consider either the MDM-2001 modem or the ALE offered by Rockwell as a "minor modification" of any product that the awardee offers commercially or has in production. The protester alleges that it could have decreased its price and increased the performance capability of its offered products, if it had chosen to depart from what it viewed as a mandatory requirement to furnish equipment based on NDI.

Contrary to the protester's assertions, however, we find that the RFP specifically allowed consideration of modified or unproven hardware, and permitted the agency to consider the risks of such hardware, given the degree of modification needed for an item to meet requirements.^{2/} The evaluation scheme specifically provided for considering "the extent to which equipments' operational capabilities and physical configuration/design depend upon unproven or modified hardware units/items" and balancing such dependence against the "degree of performance and financial risks, if any, inherent in the offeror's proposed approaches." The RFP contained no definition of the term NDI and prescribed no

^{1/} Under the RFP's evaluation scheme, which provided for considering the total price for all options, the Rockwell proposal cost \$50 million less than that of Harris--\$262,955,968 versus \$315,207,982.

^{2/} The protester argues that the RFP required NDI equipment which is defined by statute to include any item of supply available in the commercial marketplace or in use by a government agency; any such item that requires only minor modification in order to meet the requirements of the procuring agency; or any such item not yet in use or in the commercial marketplace but which is currently in production. See 10 U.S.C. § 2325 (Supp. IV 1986). However, we merely point out that this statute expresses a preference for NDI but does not require any particular solicitation's requirements to be stated in terms of NDI. Here, we find that the solicitation did not strictly require NDI.

criteria for items to be accepted or rejected based on the degree of developmental work needed. Accordingly, we find that the RFP permitted an offeror's use of unproven hardware, which would be evaluated by the agency for risk to the successful completion of its program. We therefore deny this protest ground.

Next, the protester argues that a proper evaluation of the awardee's offer would have demonstrated its technical unacceptability because of the high risk of performance and schedule failure. The protester believes that because Rockwell offered items in need of considerable development, evaluators should have perceived the awardee's proposal as markedly inferior in the evaluation areas of "Understanding the Problem" and "Feasibility of Approach," instead of ranking it equal to the protester's proposal.

The contracting agency is responsible for evaluating the information supplied by an offeror and ascertaining whether it is sufficient to establish the technical acceptability of its offer, since the contracting agency must bear the burden of any difficulties incurred by reason of a defective evaluation. Morey Mach., Inc., B-234124, May 10, 1989, 89-1 CPD ¶ 440. Where technical supplies or services are involved, the contracting agency's technical judgments are entitled to great weight, and we will not substitute our judgment for the agency's unless its conclusions are shown to be arbitrary or otherwise unreasonable. Chemical Waste Management, Inc., B-232276, Dec. 13, 1988, 88-2 CPD ¶ 590.

We have reviewed the Rockwell proposal and the agency's technical evaluation; we find that the evaluation was proper and consistent with the stated evaluation scheme. Specifically, we find that the agency was not arbitrary or unreasonable in regarding the awardee's modified equipment as presenting an acceptable risk.

According to the Rockwell proposal, complete testing of the essential elements of its proposed shelter were due in July, 3 months prior to the first deliveries. In each shelter, the awardee proposed to provide its MDM-2001 modems; each modem is programmable and controlled by modular software allowing operation in the five modes required by the statement of work. By using the MDM-2001 modems to function in place of the five required modems, the awardee achieved

significant reduction in weight, size, power consumption and parts content. The agency advises that the MDM-2001 modem has been developed, built, tested and proven.

Further, the record shows that the MDM-2001 modem is one piece of equipment developed for the Rockwell Advanced Transportable system, a system that began development in-house in 1987. In 1988 this private research and development program resulted in award of an Air Force contract to design and build a replacement for the radio control and monitor unit used in an Air Force shelter. At the time of its initial proposal, Rockwell was in the process of developing software modifications to address ALE radio functions and control the configuration of the MDM-2001 modem. The ALE itself derives from hardware in existence for 2 years.

In short, the record shows that items of equipment proposed by Rockwell do require developmental effort to meet specifications. However, the record also shows that Rockwell has a solid developmental base consisting of existing equipment which will be modified to meet current requirements. We find nothing in the record to show that the agency's acceptance of the technical risks involved in modifying the Harris equipment was arbitrary or unreasonable, especially since the solicitation specifically permitted the agency to accept such risks.

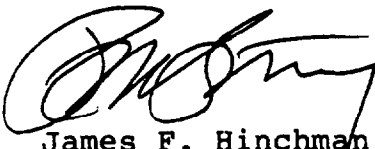
The protester also alleges that the agency employed a defective evaluation scheme. In support of its argument, the protester furnishes a list of 45 factors, apparently based on its debriefing notes, representing criteria that the agency considered in reviewing proposals; the protester argues that many of these criteria bear no relation to the stated evaluation factors. Further, the protester contends that the agency's use of a four-category, broad adjectival rating system (outstanding-acceptable-susceptible-unacceptable) prevented the source selection evaluation board from distinguishing accurately or intelligently between proposals, such that the board's ratings did not effectively communicate the relative quality of proposals and left the contracting officer with no discriminator other than price.

It is well-settled that an RFP need not set forth with specificity the subfactors to be evaluated as long as they are logically and reasonably related to or encompassed by the stated evaluation factors. Columbia Research Corp., 61 Comp. Gen. 194 (1982), 82-1 CPD ¶ 8. Of the allegedly unstated evaluation factors identified by the protester, most relate to statement of work requirements for test data

and documentation, the consideration of which was specifically provided for in the RFP. Further, we see no evidence that the consideration of these factors had any effect on the overall evaluation. Our review of the remainder shows the use of criteria clearly related to the stated major factors.^{3/} The protester has identified no inconsistency between the stated evaluation factors and those actually used. Rather, the protester appears to argue that the number of factors considered, when combined with the broad adjectival rating system, diluted the impact of technical ratings.

Concerning the allegedly improper use of the broad adjectival rating scheme, we note that the agency specifically found that both proposals offered certain specific advantages and disadvantages. For example, as the protester is aware, its use of five separate modems made its assemblage overweight, resulting in a low rating for transportability. Further, despite the protester's allegations that the awardee's proposal carried a high risk of delivery failure, the evaluators found that Harris' proposal carried a greater risk in this regard, in view of its dependence on vendors that were demanding long lead times--12 months for one modem and 5 months for another. The record also contains extensive narrative comments of the evaluators, which we find also gave the selecting official a clear picture of the advantages and disadvantages of each proposal. We therefore find nothing to support the protester's contention that the use of broad adjectival ratings prevented the contracting officer from gaining a clear understanding of the relative merit of proposals. See Ferguson-Williams, Inc., 68 Comp. Gen. 25 (1988), 88-2 CPD ¶ 344.

The protest is denied.


James F. Hinchman
General Counsel

^{3/} For example, under Technical Performance, the agency considered operational effectiveness and performance capability; under Integrated Logistics Support, the agency considered item supportability, training/technical assistance and spare/repair part acquisition plan; under Production Readiness, the agency considered producibility, production planning and manpower allocation.